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Public Comments Not Uploaded Urgent Opposition to ITEM 17 on MARCH 6, 2023: CF No: 20-1074-S4 - City of Los Angeles proposed Permanent Al Fresco Ordinance

1 message

Margaret Molloy <mmmolloy@earthlink.net>
 Reply-To: clerk.plumcommittee@lacity.org
 To: clerk.plumcommittee@lacity.org

Mon, Jun 5, 2023 at 4:42 PM

PLEASE SHARE WITH PLUM COMMITTEE MEMBERS PRIOR TO THE HEARING FOR ITEM 17 ON MARCH 6, 2023: CF No: 20-1074-S4

From: Margaret Molloy <mmmolloy@earthlink.net>
Subject: PLEASE LET ME KNOW IF YOU WANT TO SIGN ASAP - Urgent Opposition to CF No: 20-1074-S4CF No: 20-1074-S4 - City of Los Angeles proposed Permanent Al Fresco Ordinance
Date: June 5, 2023 at 4:38:53 PM PDT
To: Vince Bertoni <vince.bertoni@lacity.org>, Kate.Huckelbridge@coastal.ca.gov
Cc: alfresco.planning@lacity.org, Faisal Roble <faisal.roble@lacity.org>, Lisa Webber <lisa.webber@lacity.org>, maya.zaitzevsky@lacity.org, ESTINEH.MAILIAN@lacity.org, Theodore Irving <theodore.irving@lacity.org>, planning.media@lacity.org, "Warren, Louise@Coastal" <Louise.Warren@coastal.ca.gov>, "Hudson, Steve@Coastal" <Steve.Hudson@coastal.ca.gov>, "Vaughn, Shannon@Coastal" <shannon.vaughn@coastal.ca.gov>, "Stevens, Eric@Coastal" <eric.stevens@coastal.ca.gov>, "Jessica@Coastal Reed" <Jessica.Reed@coastal.ca.gov>, Laddie Williams <cwilli7269@aol.com>, Jon Wolff <jonwolffusa@aol.com>, Ingrid Mueller <ingridinvenice@gmail.com>, Eileen Archibald <eileenbarchibald@aol.com>, Ed Ferrer Beachhead <edward928ferrer@yahoo.com>, Sarah Mahir <victoria2love@verizon.net>

Hello Mr. Bertoni, Ms. Huckelbridge, and all,

The Department of City Planning's (DCP) proposed Permanent Al Fresco Ordinance (CF No: 20-1074-S4) cannot be approved because it does not qualify as a ministerial action for the reasons stated below.

CF No: 20-1074-S4 and a related draft ordinance would approve **a permanent expansion of food and alcohol service floor area** on private property. DCP cannot treat local entitlements that are discretionary by law, as de facto ministerial approvals. And DCP cannot approve the expansion of a state approval of a discretionary entitlements such as an Alcohol Bureau Control (ABC) license. That exceeds the City's legal authority.

CF 20-1074-S4 will be heard as Item 17, at 2:00pm tomorrow, Tuesday, June 6, at the City's Planning and Land Use Management Committee meeting. The motion states that changes to the Los Angeles Municipal Code (LAMC) are proposed to:

"...clarify and streamline Zoning Code regulations regarding outdoor dining on private property. Outdoor dining that complies with the applicable standards would be permitted as a **byright use** in any zones where restaurants are currently permitted. Any outdoor alcohol service would continue to require compliance with all applicable zoning regulations as stated in an existing or new discretionary approval."

This is not an appropriate ministerial action for the reasons stated below.

Background

In Los Angeles, cafes, restaurants, and bars are required to have DCP approvals to operate, and Conditional Use Permits (CUB) in order to serve alcohol. Those entitlements are discretionary approvals.

For discretionary planning approvals, DCP must consider and make required findings on issues that include, but are not limited to:

- (1) compatibility with the neighborhood
- (2) noise, and neighboring properties legal right of quiet enjoyment of private property,
- (3) parking requirements,
- (4) local traffic and parking impacts,
- (5) number of existing licenses in a census tract,
- (6) nearby sensitive uses such as schools and churches,
- (7) crime statistics in the immediate area,
- (8) cumulative impacts

CUB approvals additionally require findings that include, but are not limited to:

- (a) number of existing licenses in a census tract,
- (b) noise, and consideration of neighboring properties legal right of quiet enjoyment of private property,
- (c) nearby sensitive uses such as schools and churches,
- (d) crime statistics in the immediate area,
- (e) LAPD support or recommendation for denial

Based on consideration of these factors, DCP approvals limit the service floor area (SFA) and maximum number of occupants and have parking requirements directly related to the SFA and maximum occupancy. Onsite parking is required, or offsite private parking with a covenant, and/or valet attendants.

The operator needs to get a state ABC license for alcohol service. ABC-257 Applications have a redlined "licensed premises diagram" requirement (and limitation):

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.). The area to be licensed must be outlined in red.

Applications are signed with the following statement:

It is hereby declared that the above-described premises and character of premises, as indicated on the reverse side, will not be changed in accordance with Rule 64.2 of the California Code of Regulations without first notifying and securing approval of the Department of Alcoholic Beverage Control. Substantial changes to the premises may require an application fee in accordance with Section 24072 of the Business and Professions Code. I declare under penalty of perjury that the foregoing is true and correct.

ABC approvals are discretionary and require consideration of issues including, but not limited to:

- (1) public necessity,
- (2) number of existing licenses in a census tract,

(3) noise, and consideration of neighboring properties legal right of quiet enjoyment of private property,

(4) traffic and parking impacts,

The statewide Covid-related Temporary AI Fresco Dining approval was an “extraordinary” measure during a global pandemic allowing restaurants an enormous expansion into private and public property in order to (1) provide service, and (2) survive financially, and (3) allow the public to gather safely in small groups “outside only”. That hasty measure would never have happened without a pandemic. On May 11, 2023, the Covid pandemic officially ended according to the Center for Disease Control (CDC). Covid-related protections and “exceptions” including a Paycheck Protection Program, Eviction Moratoriums for renters, Temporary AI Fresco Dining, and others have ended or are ending soon.

ISSUES

Now, the proposed Permanent AI Fresco Ordinance (Council File No: 20-1074-S4) seeks to make approval of that expansion of outdoor SFA on private property, which is discretionary by law, as de facto ministerial approvals without consideration of private property rights, nearby sensitive uses, proximity to residential homes, or consideration of the consequences of eliminating existing required parking on private property, compounding community impacts of expanded service area with more patrons, reduced parking, and impacts on local parking and traffic.

This proposed ordinance also involves significantly expanded SFA for alcohol service, an approval that is outside the City’s jurisdiction.

The Department of City Planning cannot authorize expanded alcohol service outside a licensee's state-approved “licensed premises diagram” area, or infringe on private property rights, or community welfare, or traffic and parking impacts related to expansion of SFA and removal of existing required on-site parking on private property required for a local CUB and state ABC license, as a de facto ministerial approval.

Coastal Zone

In the coastal zone areas of Los Angeles including sections of Venice, San Pedro, and Pacific Palisades, this proposal exceeds the City's legal authority. A restaurant seeking an **expansion of service floor area for food and alcohol service with a reduction in the existing required parking, as is proposed here**, requires a Coastal Development Permit following a planning application, public notice, hearing and appeal opportunities. DCP and/or the Coastal Commission must make findings for consistency with Chapter 3 policies of the Coastal Act and cumulative effects and cumulative impacts analysis including, but not limited to Cal. Gov. Code Regs, Title 14, Sections 15355, 15364, 15366, 15369, 15374, and 15382.

For all of these reasons, the Department of City Planning's (DCP) proposed Permanent AI Fresco Ordinance (CF No: 20-1074-S4) cannot be approved. Entitlements which are discretionary by law, cannot be treated as de facto ministerial approvals. Vote NO.

Appreciatively,

Laddie Williams

Jon Wolff

Ingrid Mueller

Eileen Archibald

Ed Ferrer

Sarah Mahir

Margaret Molloy

Council File No: 20-1074-S4

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-1074-S4>

Proposed Permanent Al Fresco Ordinance

<https://planning.lacity.org/plans-policies/outdoor-dining>

Summary

The proposed Al Fresco Ordinance is a key component of Los Angeles's economic strategy, geared toward propping up locally-sourced jobs in the hospitality industry which are recovering from the pandemic. City Planning's Al Fresco Ordinance amends provisions of Los Angeles's Zoning Code to facilitate outdoor dining on private property. Recognizing the success of the emergency outdoor dining authorizations, the proposed ordinance will simplify current Zoning Code regulations for restaurant owners who wish to offer outdoor dining in private property areas including but not limited to parking lots, patios, and plazas. Specifically, this ordinance seeks to make permanent the temporary zoning relief measures for private property introduced during the pandemic that allowed restaurant operators to utilize their parking spaces to facilitate outdoor dining.

DCP released a [revised Ordinance](#), [updated Fact Sheet](#) and [Regulations Comparison Chart](#) (also see the [Simplified Chart](#)), dated April 2023, reflecting feedback received during the public hearing and comment period on the initial draft Ordinance. The revised Al Fresco Ordinance and Staff Recommendations Report was approved by the City Planning Commission (CPC) in April (see the [Letter of Determination](#)). View updates on the Al Fresco Ordinance, and submit public comment for City Council consideration by visiting the Council File.

PLANNING AND LAND USE MANAGEMENT COMMITTEE

TUESDAY, JUNE 6, 2023

Item (17) CF 20-1074-S4

Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15303 and 15311, and California Public Resources Code Section 21080.25, and Negative Declaration pursuant to CEQA Guidelines Section 15074(a), report from the Los Angeles City Planning Commission and a proposed Ordinance amending Sections 12.03, 12.10.5, 12.11.5, 12.12.2, 12.13, 12.13.5, 12.14, 12.21, 12.21.1, 12.22, 12.24, and 16.02.1 of the Los Angeles Municipal Code (LAMC) to **clarify and streamline Zoning Code regulations regarding outdoor dining on private property**. Outdoor dining that complies with the applicable standards would be permitted as a **byright use** in any zones where restaurants are currently permitted. Any outdoor alcohol service would

continue to require compliance with all applicable zoning regulations as stated in an existing or new discretionary approval.

Applicant: City of Los Angeles

Case No. CPC20228179CA

Environmental No. ENV20228180CE; ENV20233278ND.

Fiscal Impact Statement: Yes

Community Impact Statement: None submitted.



ABC-257.pdf
557K

LICENSED PREMISES DIAGRAM (RETAIL)

1. APPLICANT'S NAME(S) (If an individual, last name, first name, middle name. Name of entity if corporation, limited partnership or limited liability company.)	2. LICENSE TYPE
3. PREMISES ADDRESS (Street number and name, city, zip code)	4. NEAREST CROSS STREET

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.). The area to be licensed must be outlined in red.

DIAGRAM

It is hereby declared that the above-described premises and character of premises, as indicated on the reverse side, will not be changed in accordance with Rule 64.2 of the California Code of Regulations without first notifying and securing approval of the Department of Alcoholic Beverage Control. Substantial changes to the premises may require an application fee in accordance with Section 24072 of the Business and Professions Code. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required)	DATE SIGNED	
FOR ABC USE ONLY		
CERTIFIED CORRECT (Signature)	PRINTED NAME	INSPECTION DATE

PLANNED OPERATION (RETAIL)**SECTION I - FOR ALL RETAIL APPLICANTS**

1. APPLICANT'S NAME(S) If an individual, last name, first name, middle name. Name of entity if corporation, limited partnership or limited liability company.					2. LICENSE TYPE(S)																
3. PREMISES ADDRESS (Street number and name, city, zip code)					4. NEAREST CROSS STREET																
5. TYPE OF BUSINESS (Choose one that best describes the planned operation)																					
Full Service Restaurant		Cafeteria/Hofbrau		Cocktail Lounge		Private Club															
Deli or Specialty Restaurant		Comedy Club		Night Club		Veterans Club															
Cafe/Coffee Shop		Brew Pub		Tavern		Fraternal Club															
Bed & Breakfast		Theater		Wine Tasting Room																	
Supermarket		Membership Store		Service Station		Swap Meet/Flea Market															
Liquor Store		Department Store		Convenience Market		Drive-in Dairy															
Variety/Drug Store		Gift Shop/Florist		Convenience Market w/Gasoline																	
Other - describe: _____																					
6. FOOD SERVICE					7. MEAL TYPE																
None		Minimal		Full Meals		Dinner House		Seafood		Fast Food/Deli		Pizza/Pasta		Other: _____							
8. TYPE OF FOOD																					
American		Chinese		French		Greek		Indian		Italian		Japanese		Korean		Mexican		Thai		Other: _____	
9. HOURS OF FOOD SERVICE:																					
BREAKFAST HOURS - From: _____ To: _____				LUNCH HOURS - From: _____ To: _____				DINNER HOURS - From: _____ To: _____													
10. OPERATING HOURS:																					
Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday									
Opening Time																					
Closing Time																					
11. ENTERTAINMENT: (One or more may apply. Please describe any entertainment with an asterick (*) below)																					
None		*Amplified Music		Patron Dancing		Card Room															
Recorded Music		*Live Entertainment		Bikini/Topless/Exotic		Movies															
Juke Box		*Floor/Stage Shows		Pool/Billiard Tables		"Hot Spot"/Lottery															
*Other		Karaoke		*Amateur/Pro Sports Events		Video/Coin-Operated Games															
*Description: _____																					
12. YES OR NO QUESTIONS :										15. PREMISES IS LOCATED ON :											
a) Will you hire a manager? (Rule 57.5)										Yes		No		Major Thoroughfare Secondary Street Other : _____							
b) Will you have a food lessee? (Rule 57.7)										Yes		No		16. PREMISES LOCATED IN : Free Standing Building Shopping Center (name) : _____ 10 Units or Less More than 10 Units							
c) Do you intend to sell cocktails or servings of wine to go?.....										Yes		No									
d) Does your business have a pass-through window?										Yes		No									
e) Does your business have any fixed bars?.....										Yes		No									
i) If yes, how many? _____														17. SURROUNDING AREA : Commercial Industrial Residential Rural Other : _____							
f) Does your business have a patio?.....										Yes		No									
g) Will you share a common licensed area with another licensee?.....										Yes		No									
h) Does the premises have a parking lot?.....										Yes		No									
i) If yes, is it shared with other business?.....										Yes		No		18. TYPE OF STRUCTURE : Single Story Two-Story Multi-Story - Number of Stories: _____							
13. What percentage of your total sales will be from alcoholic beverages?					14. Patron Capacity																

FOR ABC USE ONLY

INFORMATION GIVEN (R-27, R-107, Sec. 25612.5, Sec. 23790.5, etc.)